

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

January 30, 2008

No. 07-20611
Conference Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

JOSE BARRON GONZALEZ, also known as Jose Barron-Gonzalez, also known as Fernando Garza, also known as Jose Gonzalez, also known as Juan Jose Barron Gonzales, also known as Jose B Gonzalez, also known as Fernando Gonzalez, also known as Jose Gonzalez Barron

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:07-CR-54-1

Before REAVLEY, BENAVIDES, and ELROD, Circuit Judges.

PER CURIAM:*

Appealing the Judgment in a Criminal Case, Jose Barron Gonzalez raises arguments that are foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224, 235 (1998), which held that 8 U.S.C. § 1326(b)(2) is a penalty provision and not a separate criminal offense. *United States v. Pineda-Arellano*, 492 F.3d 624,

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

625 (5th Cir. 2007), cert. denied, 2008 WL 59441 (Jan. 7, 2008) (No. 07-6202).
The appellant's motion for summary disposition is GRANTED, and the judgment
of the district court is AFFIRMED.